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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,864	08/02/2002	Ulrike Berisha-Goerschel	01013.0087.PCUS00	6771

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EXAMINER

ALLEN, ANDRE J


ART UNIT PAPER NUMBER

2855

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/088,864	BERISHA-GOERSCHEL ET AL.	
Examiner	Art Unit	
Andre J. Allen	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on app as filed 8-2-02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8-2-02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5,7-11,13 and 17 is rejected under 35 U.S.C. 102(b) as being anticipated by
Avilla et al.

Regarding claim 5 Avilla teaches providing a component 100;
identifying at least one region of the component which will not be subject to significant static stress when installed in the completed assembly (col. 5 lines 14-54); removing at least one test piece 108 109 from at least one of the identified regions of the component; and testing the removed test piece to determine at least one property of the test piece (col. 5 lines 14-54) .

Regarding claims 7 and 15 Avila teaches testing a material characteristic data of the test piece (col. 1 lines 60-65).

Regarding claims 8 and 9 Avilla teaches a component is installed in the assembly without the removed test piece (col. 5 lines 14-54) .

Regarding claims 10 and 11 Avilla teaches testing the test piece in a manner that destroys it (col. 3 lines 60-68 col. 4 lines 1-9).

Regarding claim 13 Avilla teaches cutting through a wall section of the component to produce a hole (col. 5 lines 1-65).

Regarding claim 17 Avilla teaches testing the test piece, a test device the dimensions of the test piece being selected to be suitable for the test device (claim 11).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6,14 and 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Avilla et al.

Regarding claims 6,14 and 16 Avilla does not teach the component to be a reinforced fiber material nor cut in a circular shape. Avilla however does teach a component to be cut and is made from an epoxy composite material having fibers (col. 3 lines 60-68 col. 4 lines 1-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fiber reinforced material for testing instead of a composite material and cut a area that is a specific shape, since it has been held to be within the general skill of a worker in the art to select a material on the basis of its intended use. In re Leshin, 125 USPQ 416. In this particular case the claimed invention and Avilla both disclose materials that are stress tested a fiber material and an epoxy material. Lacking any criticality it would have been obvious to one having ordinary skill in the art to select any material readily available to the public at the time of the material testing and cut the said material into any shape for the purpose of determining the material strength or life span.

Allowable Subject Matter

3. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited prior art does not disclose nor suggest a hollow portion created in the component by the removal of the test piece is filled by a filler material.

Conclusion

created in the component by the removal of the test piece is filled by a filler material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 571-272-2174. The examiner can normally be reached on mon-fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J.A
Art Unit 2855


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